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10/565,318	02/01/2006	Wolfgang Haase	F-8922	9926

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EXAMINER	
MAZUMDAR, SONYA	
ART UNIT	**PAPER NUMBER**
1734	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/565,318	HAASE, WOLFGANG	
	Examiner	Art Unit	
	Sonya Mazumdar	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *36-69* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *36-69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 January 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/9/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of carrier coatings and printed material on labels disclosed in claims 51 and 52 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 59 through 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 59 recites the limitation "the pre-specified target positions" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 36, 38, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haase (DE 10228292) in view of Schroeder (US 6,341,472).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1)

a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Haase teaches a method of apply labels to bottle closures. Closures (1) are placed on a conveyor (7) and conveyed to a labeling apparatus (12, 12') to be printed upon (Figure 2). Closures are then applied to beverage bottles and applied to bottles.

Haase teaches producing labels to be applied to bottles in accordance to hygiene requirements. However, there is no specific teaching of sterilizing closures after label application. It would have been obvious to do so, as Schroeder teaches spraying a sterilizing agent, such as hydrogen peroxide, onto bottle caps (3) prior to placement onto containers (6) (column 3, lines 29-41), in promotion of a sanitary production process for consumer products.

5. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haase in view of Schroeder, as applied to claim 36, and further in view of Ray (US 2,371,265).

The teachings of claim 36 are as described above.

Although Haase in view of Schroeder does not teach applying closures to bottles before conveying the closures to a labeling position, it would have been obvious for one to do so, as Ray teaches closing bottle openings prior to applying decoration in a sanitary environment underneath a removable hoods (column 1, lines 46-50; column 2, lines 49-52; Figures 1 and 7), to apply a closure to a filled bottle and ensuring the bottle's assignment with appropriate decoration.

6. Claims 41 through 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haase in view of Schroeder, as applied to claim 38, and further in view of Powell et al. (US 4,530,202)

The teachings of claim 38 are as described above.

With respect to claim 41, Haase teaches applying closures comprising covers (2) and body parts (3) (Figure 1). Haase in view of Schroder does not teach applying UV radiation during sterilizing closures. However, it would have been obvious for one to do so, as Powell et al. teach using a sterilizing assembly where ultraviolet lamps are used on closures for containers (column 6, lines 36-51), to provide even sterilization on closures for containers in which other means, such as simply spraying/coating may not be able to accomplish.

With respect to claim 42, although not specifically disclosed, from the teachings of Haase in view of Schroeder and Powell et al., it is inherent to sterilize all surfaces of closures; however, if it is not inherent, it would have been obvious to do so to produce a completely clean consumer product, abiding by hygiene requirements.

With respect to claim 43, Haase teaches applying closures comprising covers (2) and body parts (3) and applying labels to the body parts of the closures (English translation of Haase – page 3, paragraphs 3, 4, and 8; Figure 1).

Although not specifically disclosed, it is inherent that Haase applies covers to the body parts after applying the labels to the body parts. However, if it is not inherent, it would have been obvious to one having ordinary skill in the art to do so to form a complete closure for a bottle or container.

With respect to claims 44, 45, and 46, Haase teaches forming screw-on closures by pushing covers onto closure body parts, thereby Haase teaches detachably attaching covers to the closure body parts (English translation of Haase – page 2, paragraphs 5 and 6; page 3, paragraphs 1 through 4).

With respect to claim 47, Haase teaches placing closures which act as crown seals (English translation of Haase – page 3, paragraphs 4 through 4).

With respect to claim 48, Haase teaches placing closures made of plastic (English translation of Haase – page 2, paragraphs 5 and 6).

With respect to claims 49 and 50, Haase teaches applying paper or plastic labels that are self-adhesive (English translation of Haase – page 3, paragraph 7).

With respect to claims 51, Haase teaches applying labels comprising a plurality of carrier coatings (English translation of Haase – page 2, paragraphs 17 through 19).

With respect to claims 52 and 53, Haase teaches applying silk-screen printing labels (English translation of Haase – page 2, paragraph 10).

With respect to claim 54, Haase teaches applying reflective or fluorescent films to labels (English translation of Haase – page 2, paragraphs 17 and 18).

With respect to claim 55, Haase teaches applying rub-off coatings (English translation of Haase – page 2, paragraph 19).

With respect to claim 56, Haase teaches applying temperature-sensitive coatings to labels (English translation of Haase – page 2, paragraph 15).

With respect to claim 57, Haase teaches applying labels comprising embossing and/or punching (English translation of Haase – page 2, paragraph 20).

With respect to claim 58, Haase teaches applying labels to bottled mineral water, fruit juice, beer, or lemonade (abstract).

7. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haase in view of Wuerfel (DE 2539857).

With respect to claim 59, Haase teaches an apparatus to form bottles as consumer products, comprising: conveying means to transport closures (1) to target positions and labeling machines (12, 12') to apply labels (13) on closures at each target position (Figure 2).

Haase fails to teach a labeling machine that is also capable of acting as a bottle filling system. However, Wuerfel teaches use of a bottle filling with an integrated labeling machine (abstract). It would have been obvious to one having ordinary skill in the art to have a labeling machine that is also capable of acting as a bottle filling system, such as Wuerfel taught, and would have been motivated to do so instead of having a separate apparatus to perform each operation.

Claim 59 and its' dependant claims are analyzed as invoking 35 USC 112, 6th paragraph.

8. Claims 60, 61, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haase in view of Wuerfel, as applied to claim 59 above, and further in view of Schroeder and Lodge (US 3,059,666).

The teachings of claim 59 are as described above.

With respect to claim 60, Haase teaches a separation unit to separate closures (8) a conveyor for feeding the closures, and two labeling machines (Figure 2). However, Haase does not teach a disinfecting unit to apply disinfectants to closures. It would have been obvious to do so, as Schroeder teaches a disinfecting unit in a bottling apparatus, where a sterilizing agent, such as hydrogen peroxide, is sprayed onto bottle caps (3) prior to placement onto containers (6) (column 3, lines 29-41), in promotion of a sanitary production process for consumer products.

Furthermore, Haase does not specifically teach a container with an air-tight connector to receive the sterilized closures. However, Lodge teaches a filter comprising a housing (1) having an air-tight connection with a rubber member (6a) to attach a filter unit (17). Even though the filter does not store closures, it would have been obvious to one having ordinary skill in the art to have a storage container with an air-tight connection to receive the closures, and would have been motivated to do so to avoid entrance of contaminants that may exist in the air.

With respect to claim 61, Haase in view of Wuerfel, Schroeder, and Lodge teaches a disinfecting unit (7) comprising a conveyor (12) along a path and a spray unit (8) for spraying disinfectant (Schroeder - column 1, lines 46-55; Figure 1).

With respect to claim 62, Haase in view of Wuerfel, Schroeder, and Lodge teaches a disinfecting unit (7) applying sterilized air to closures as they reach an outlet of a disinfecting unit (Schroeder - column 3, lines 40-45; Figure 1).

9. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haase in view of Wuerfel, Schroeder and Lodge, as applied to claim 60 above, and further in view of Powell et al.

The teachings of claim 60 are as described above.

Haase in view of Wuerfel, Schroeder and Lodge does not an apparatus having UV radiation sources during sterilizing closures. However, it would have been obvious for one to do so, as Powell et al. teach using a sterilizing assembly where ultraviolet lamps are used on closures for containers (column 6, lines 36-51), to provide even sterilization on closures for containers in which other means, such as simply spraying/coating may not be able to accomplish.

Furthermore, although not specifically disclosed, from the teachings of Haase in view of Wuerfel, Schroeder, Lodge, and Powell et al., it is inherent to sterilize all surfaces of closures; however, if it is not inherent, it would have been obvious to do so to produce a completely clean consumer product, abiding by hygiene requirements.

10. Claims 64 through 69 rejected under 35 U.S.C. 103(a) as being unpatentable over Haase in view of Wuerfel, Schroeder, Lodge, and Powell et al., as applied to claim 63 above, and further in view of Debrunner et al. (US 6,298,994).

The teachings of claim 63 are as described above.

With respect to claim 64, although Lodge teaches a housing with an air-tight connection with a filter unit, Haase in view of Wuerfel, Schroeder, Lodge, and Powell et

al. does not teach a storage container comprising a plastic bag in an octabin. However, it would have been obvious to do so, as Debrunner et al. teach it is conventional in the art to use a durable shipping container, such as an octabin, having openings to dispense closures from the sides, with a bag disposed therein (column 1, lines 19-26; column 3, lines 19-21).

With respect to claims 65, 66, and 67, Haase teaches a centrifugal sorter (8) for closures before placement on a conveyor, and then using a switch (10) to feed the closures to identical labeling machines (12, 12') (page 3, paragraph 7; Figure 2).

With respect to claim 68, Haase teaches labeling machines to apply labels as a function of sensor signals when a closure is in a target position (page 3, paragraph 10).

With respect to claim 69, Haase teaches each labeling machine comprising mechanical means to transport closure at a specific rate to target positions (page 3, paragraph 14).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonya Mazumdar whose telephone number is (571) 272-6019. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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